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Reply To Gary E. Lofland

Direct: 509/452-2828

August 15, 2018

Mark J. Langer
U.S. Court of Appeals for the D.C. Circuit
E. Barrett Prettyman U.S. Courthouse
333 Constitution Avenue, NW, Room 5205
Washington, DC 20001-2866

Re: *Advanced Life Systems, Inc. v. NLRB*
Nos. 16-1405 & 16-1450

On August 13, 2018 the National Labor Relations Board filed a proposed judgment in the above entitled matter. Pursuant to Rule 19 of the Federal Rules of Appellate Procedure I submit a proposed judgment which is believed to conform to the Court's opinion. The judgment proposed by the NLRB fails to recognize and include that the Court ruled in favor of Advanced Life Systems on the two important issues and judgment should be granted in favor of Advanced Life Systems on those issues.

Sincerely,

/s/ Gary E. Lofland

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**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

ADVANCED LIFE SYSTEMS INC.,

Petitioner/Cross-Respondent,

v.

**NATIONAL LABOR RELATIONS
BOARD,**

Respondent/Cross-Petitioner.

Case Nos. 16-1405, 16-1450

JUDGMENT

This cause came to be heard upon a petition filed by Advanced Life Systems Inc. to review an order of the National Labor Relations Board dated August 27, 2016, Cause Nos. 19-CA-096464 and 19-CA-096899, reported at 364 NLRB No. 117, and upon cross application for enforcement by the National Labor Relations Board to enforce the order.

The Court has heard the argument of the parties and considered the briefs and record filed with the court. On August 3, 2018 the Court handed down its decision reversing in part and enforcing in part the Board's order and found:

1. The Board's order finding Advanced Life Systems, Inc. violated §8(a)(3) and 8(a)(5) of the NLRA by discontinuing irregular wage increases is not supported by substantial evidence and is vacated.
2. The Board's finding that Advanced Life Systems violated §8(a)(3) and 8(a)(5) of the NLRA by discontinuing Christmas gifts is not supported by substantial evidence. The gifts were given by the Woodcocks personally (who were not named in the complaint) and not the Company and the evidence did not show a long pattern of regularized Christmas payments that were tied to employee's remuneration.

Therefore judgment is entered in favor of Advanced Life Systems on those matters.

3. The Board finding that Mr. Woodcock made the statements to employees that subjectively could have been believed by employees to result from choosing the union is supported by substantial evidence and will be enforced.

Therefore judgment is entered in favor of the NLRB on those matters.

It is ordered and adjudged that the National Labor Relations Board and Advanced Life Systems, Inc. shall abide by the modified judgment.

Dated: _____

Judge

APPENDIX

NOTICE TO EMPLOYEES

POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS
ENFORCING IN PART AND DENYING IN PART AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board found in its order of August 27, 2017 that we had violated Federal labor law. Upon appeal to the United States District Court for the District of Columbia the Court determined that:

1. Advanced Life Systems did not violate Federal labor law by discontinuing periodic wage increases that were neither predictable or regular;
2. Advanced Life Systems did not violate Federal labor law by discontinuing Christmas bonuses because those Christmas gifts had not become a long pattern of regular payments tied to remuneration and the gifts came from the owners of ALS who were not named in the complaint.

Therefore those parts of the Board's Order are vacated and will not be enforced.

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of the protected activities.

WE WILL NOT tell you that you will not get raises if you choose, or because you have chosen, to be represented by a union.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

ADVANCED LIFE SYSTEMS, INC.

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WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL, before implementing any changes in wages, hours, or other terms and conditions of employment of unit employees, notify and, on request, bargain with the Union as the exclusive collective-bargaining representative of employees in the following bargaining unit:

All full-time, regular part-time and per diem EMTs, paramedics and _____ dispatchers employed by the Respondent out of its Yakima, Washington facilities, but excluding all other employees, maintenance employees, and guards and supervisors as defined in the National Labor Relations Act.

There is nothing in the decision that justifies this paragraph. The Circuit found no such violation.

ADVANCED LIFE SYSTEMS, INC.

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of August, 2018, on behalf of Petitioner Advanced Life Systems, I electronically refiled the foregoing document with the Clerk of the United States Court of Appeals for the District of Columbia Circuit by using the CM/ECF system, which will send notification of such filing to the following counsel:

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Counsel for Respondent the National Labor Relations Board

Gary E. Lofland glofland@lofland.net

Counsel for Petitioner Advanced Life Systems

Dated: August 15, 2018.

Respectfully submitted,

/s/ Gary E. Lofland

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